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Date: December 18, 2002 By: Bryce L. Current
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PATENT

Attorney Docket No. DX01170K

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	Examiner: D. JIANG
Daniel M. Gorman (sole)	Art Unit: 1646
Serial No.: 09/863,818	**RESPONSE TO RESTRICTION REQUIREMENT AND AMENDMENT**
Filed: May 23, 2001	
For: MAMMALIAN RECEPTOR PROTEINS; RELATED REAGENTS AND METHODS	Palo Alto, California 94304
	December 18, 2002

Assistant Commissioner for Patents
Washington, D.C. 20231

Honorable Sir:

This is a response to the Restriction Requirement dated October 1, 2002 (paper 8). Applicant also submits the following amendment. Accompanying this response is a petition for a two-month extension of time and fee, thereby extending the time to respond from November 1, 2002 to January 2, 2003, as January 1, 2003 is a Federal holiday.

RESTRICTION REQUIREMENT

The Examiner restricted the application into nine separate inventions:

I. Claims 1 in part (parts a), b), e), and f)), 2, 3 in part, and 6, drawn to a composition of a polypeptide comprising small amino acid segments of a specific amino acid sequence, and a kit thereof, classified in class 530, subclass 300.

II. Claims 1 in part (parts c), d), g), and h)), 2, 3 in part, and 4-6, drawn to a composition of a polypeptide comprising a natural or a mature form of the polypeptide, and a kit thereof, classified in class 530, subclass 350.

III. Class 7, 8, and 11, drawn to a binding compound comprising an antigen binding site from an antibody, and a kit thereof, classified in class 530, subclass 387.9.

IV. Claims 9 and 10, drawn to a method of producing an antigen:antibody complex, classified in class 435, subclass 7.1.

V. Claims 12 in part, 13, 14, 15 in part, and 16-18, drawn to an isolated nucleic acid, a host cell containing the nucleic acid, and a kit comprising the nucleic acid, encoding a full-length or mature form of a polypeptide, classified in class 435, subclass 69.1.

VI. Claims 12 in part, 13, 14, 15 in part, and 16-18, drawn to an isolated nucleic acid comprising small fragment(s) of a nucleic acid, a host cell containing the nucleic acid, and a kit comprising the nucleic acid, classified in class 435, subclass 69.1.

VII. Claim 15 in part, drawn to a kit comprising the nucleic acid and a polypeptide, classified in class 436, subclass 808.

VIII. Claims 19 and 20, drawn to a method of modulating physiology or development of a cell with an agonist of said polypeptide, classification depending upon the chemical entity of the agonist.

IX. Claims 19 and 20, drawn to a method of modulating physiology or development of a cell with an antagonist of said polypeptide, classification depending upon the chemical entity of the antagonist.

The Examiner also restricted the invention into one specific polypeptide sequence, i.e., one from SEQ ID NO:10, 12, and 14, and one specific DCR corresponding to the elected SEQ ID NO:, i.e., to elect DCRS8 or DCRS9. Applicant wishes to point out an Examiner's error in the characterization of the species of the invention. The Restriction Requirement should require election of one polypeptide from SEQ ID NO:10 (human DCRS8), SEQ ID NO: 12 (human DCRS9), and SEQ ID NO:14 (mouse DCRS9), rather than "one from SEQ

ID NO:10, 12, and 14; and one specific DCR corresponding to the elected SEQ ID NO:, i.e., elect DCRS8 or DCRS9." (page 5, lines 24-26 of Office action).

Applicant provisionally elects, with traverse, Group III, drawn to a binding compound comprising an antigen binding site from an antibody, and a kit thereof. Applicant also elects SEQ ID NO:12.

Applicant requests that the claims encompassed by Groups III and IV, as they relate to SEQ ID NO:12, be rejoined and examined together. The Examiner acknowledges that "the product as claimed may be used as a pharmaceutical composition . . ." (page 4, lines 12-13, of Restriction Requirement). When an antibody to SEQ ID NO:12 is used as a therapeutic or pharmaceutical, an antigen:antibody complex of Group IV would form. In view of this unifying property between the claims of Groups III and IV, Applicant concludes that it would not be a serious burden to examine the claims in the above-identified groups together, and that the Examiner must therefore examine them together (M.P.E.P. §803, August 2001).

Accompanying this response to the Restriction Requirement is an Amendment below.

IN THE CLAIMS:

Please cancel Claims 1-20, without prejudice. Please add new Claims 21-26, as indicated.

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21. (New) A binding composition comprising an antigen binding site of an antibody which specifically binds to a polypeptide comprising SEQ ID NO:12, or an antigenic fragment thereof.

22. (New) The binding composition of Claim 21, further comprising:

a) a humanized antibody;

b) a polyclonal antibody;

c) a monoclonal antibody;

d) an Fv fragment;

e) an Fab fragment;

f) an F(ab')2 fragment; or

g) a detectable label.

23. (New) A composition comprising the binding composition of Claim 21 and a carrier.

24. (New) A kit comprising the binding composition of Claim 21, and:

a) a compartment; or

b) instructions for use.

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25. (New) A method of producing an antigen:binding composition complex, comprising contacting under appropriate conditions a polypeptide comprising SEQ ID NO:12, or an antigenic fragment thereof, with a binding composition of Claim 21, thereby allowing the complex to form.

26. (New) The method of Claim 25, where the complex is bound to a cell.

REMARKS

Claims 1-20 are pending. Claims 1-20 are subject to a Restriction Requirement. Claims 1-20 are cancelled without prejudice. New Claims 21-26 are added. Applicant submits that new Claims 21-24 are encompassed within Group III and that new Claims 25-26 are encompassed within Group IV. New Claims 21-26 find support in originally filed Claims 7-10.

Applicant believes that no new matter is added by way of amendment.